



# THE BANKRUPTCY ADVISOR



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Be sure to visit  
[www.flnb.uscourts.gov](http://www.flnb.uscourts.gov)  
for the newest forms and the  
most recent filing guidelines  
under BAPCPA

★★★★★★★★★★★★★★★★

CM/ECF training is still  
available. To schedule  
training please call  
Kevin Davis at  
850-435-8473

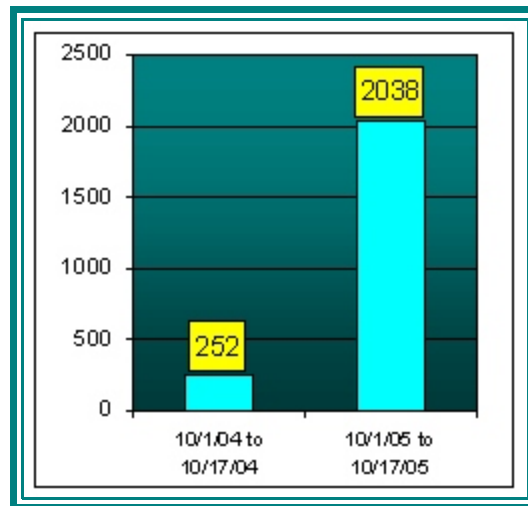
## Record Number of Cases Filed Prior to BAPCPA

The U.S. Bankruptcy Court for the Northern District of Florida followed the nation-wide trend of setting new records for bankruptcy cases filed in the weeks and days leading up to the implementation of the *Bankruptcy Abuse Prevention and Consumer Protection Act of 2005* on October 17, 2005.

In the Northern District of Florida, there were 2038 new cases filed between October 1, 2005 and October 17, 2005 compared with 252 new cases filed during the period in 2004. Although the 2004 numbers were lower than normal following Hurricane Ivan, the court usually sees an average of 383 new cases filed during the reporting period.

Official statistics from the Administrative Office of the U.S. Courts on the total number of filings nationwide have not yet been released. But it is clear that the trend in the Northern District of Florida mirrored what happened nationally prior to implementation of the new bankruptcy law. A rush of last minute filers, primarily consumer bankruptcy cases, pushed personal filings for 2005 to more than 2.04 million cases during 2005.

Many courts across the country faced an onslaught of new cases from last minute filers. Several jurisdictions remained open for business during the weekend to allow attorneys and pro se debtors to file at the last possible minute. In the Northern District of Florida, attorneys were filing cases electronically well into the evening all weekend before the new law went into effect on October 17. Meanwhile, court staff in the Northern District worked over the weekend processing new cases and upgrading the CM/ECF system to prepare for new procedures required under the Act.



## Court Staff Selected To Attend 2006 Bankruptcy Operational Practices Forum

Melissa McClure, Director of Court Operations, and Bruce Justham, Systems Technology and Facilities Specialist, have been selected to represent the U.S. Bankruptcy Court for the Northern District of Florida at the annual CM/ECF Operations Forum in Washington, D.C. this February. Another staff member, Kevin Davis, Director of Court Operations, was selected to attend as a scribe.

The forum is a cooperative effort between the Administrative Office of the U.S. Courts and the Federal Judicial Center. The

event enables courts from throughout the country to share new and emerging operational procedures. While previous forums covered a wide range of subjects faced by courts, the focus of the 2006 forum will primarily involve topics of procedural issues regarding implementation of the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA). The new law has caused many courts to adopt new procedures and practices and has created new challenges for court units. One goal of the forum is to allow court personnel to discuss operational experiences and

procedures and provide models and strategies for dealing with issues related to BAPCPA. The meeting also gives court personnel the opportunity to provide valuable feedback to Administrative Office staff regarding CM/ECF so that the system can be better maintained and enhanced.

Although staff members often undergo training, the Operational Practices Forum is unique in that the subject matter is chosen by the attendees and the discussions are geared toward resolution of real issues and making improvements at the local level.

## Change In Moderator Policy Makes Court Forum Less Restrictive

Recent modifications to the structure of the FLNB Court Forums allow for more direct communication between users. Originally, the forum allowed registered users to submit items to a moderator before posting. Postings were limited to topics related to the 2005 Bankruptcy Reform Act. Effective this month,

however, those restrictions have been removed and users can post comments directly on the system or respond to comments posted by other users. Also, topics for posting on subjects other than BAPCPA are now being allowed. A court moderator will continue to review comments which have been posted.

Attorneys are encouraged to register for this free service and use the forum to exchange information and ideas. The forum will also contain important information from the Clerk's Office regarding training opportunities, procedures and future upgrades to the CM/ECF system.

The screenshot shows the FLNB Court Forums website. At the top, there is a blue header with the text "FLNB Court Forums" and "Collaboration among Court Users". To the right of the header is a search bar with a "Search" button. Below the header, there is a navigation bar with "Home" and "Forums" links. The main content area has a heading "Welcome to the FLNB Court Forum!" followed by a paragraph explaining the forum's purpose: "The FLNB Court Forums is an online discussion network that will enable the legal community to submit questions, comments, suggestions and requests to be posted under a particular bankruptcy topic. Suggested topics will be presented on the forum and users may request new topics be added for discussion. A topic defines a particular subject area. Within a topic, a discussion may be initiated, a response to a previous message may be presented, or a request for technical assistance could be made." Below this is another paragraph stating the objective: "The objective of the FLNB Court Forums is to provide an easy and effective means for seeking and providing relevant information about bankruptcy issues and Court procedures. Initially, the forum will focus mainly on issues related to the 2005 Bankruptcy Reform Act." At the bottom, there is a "Join" button and a disclaimer: "DISCLAIMER: Visitors to the FLNB Court Forums should be aware that legal issues and bankruptcy questions are frequently complex. The information presented in this forum should not be construed as legal advice and should not be relied upon as being factual or legally accurate. All materials and information contained in this site are intended as a general source of information relating to matters which may be of general interest to the bankruptcy community. By accessing, browsing and using this site, you agree and acknowledge that you would not rely on the information and materials contained in this site for any purposes except as the FLNB Court Forums intended. Various links on this and other pages are maintained by other public and private organizations. These links and pointers are provided for the user's convenience. The U.S. Bankruptcy Court does not control or guarantee the accuracy, relevance, timeliness, or completeness of this information."

# THE CLERK'S CORNER

By: Bill Blevins, Clerk of Court



Even though we have been operating under the new law for over three months now and many new procedures have been ironed out, there are still quite a few that have not been tried and tested. We look forward to working with you in the months to come to see how well our remaining proposed BAPCPA processes work and what additional changes may be required. As always, we appreciate your patience during this transition period as well as your timely communication of issues so that we can address them as soon as they arise.

Our project plan also includes some other good news items that I want to let you know about and be prepared for in 2006. They are:

## LOCAL RULES CYCLE

As promised, a regular local rules cycle is being implemented to confirm the interim local rules that took effect October 17, 2005 and to make other changes and/or revisions that are suggested. The first step to this process is the submittal of suggestions and recommended changes to Bill Miller, the chair of the local rules committee, from **January 23 through February 17**. This can be accomplished by sending him an e-mail of your suggestion(s), including any proposed language, to:

**[william.j.miller@comcast.net](mailto:william.j.miller@comcast.net)**

Items submitted by the deadline will be compiled into a package for Judge Killian to review. Approved items will be provided to the bar for comment in late March with a public review period to follow in May. In order to obtain the required approvals from the U.S. District Court and the 11<sup>th</sup> Circuit Court of Appeals, the planned effective date of the new rules will be September 1.

## WIRELESS ACCESS

Approval has been provided by the Bench and Bar Fund for the Northern District of Florida to pay for wireless internet access in all of the courtrooms in the District. They have also approved for similar access to be provided in the trustee meeting space in Tallahassee and the jury assembly room in Gainesville so that internet connections can be made by the trustees and the bar during all 341 meetings. The installation of the service and equipment is to be handled by U.S. District Court automation staff and we hope that it will be available for your use by early summer.

## WEB PAGE

While details are not available yet, I want to communicate that we plan to re-vamp, update, and redesign our web site for improved and more efficient use in 2006. Sample pages for the new set-up will be posted for review and we will communicate in advance the transition date once it has been determined. In the meantime, please feel free to provide any comments and/or suggestions you may have regarding this subject to Kevin Davis at: [Kevin\\_Davis@flnb.uscourts.gov](mailto:Kevin_Davis@flnb.uscourts.gov)

## Conditional Order Signals Compliance With §521

A new Conditional Order in the Northern District of Florida is one of the many changes brought about by the implementation of the Bankruptcy Abuse Prevention & Consumer Protection Act of 2005 (BAPCPA). The Order is entered in cases filed after October 17, 2005 when it appears to court staff that individual debtors have met the filing requirements under 11 U.S.C. §521(a)(1).

Debtors in individual Chapter 7 and Chapter 13 cases are required to file certain documents under §521 within 45 days after the date of the filing of the petition. The case is automatically dismissed as of the 46<sup>th</sup> day if any of the required documents have not been filed. The Conditional Order puts parties on notice that the court has determined that the requirements have been met and that the case is not subject to automatic dismissal. If any party has reason to disagree that the debtor has complied with §521(a)(1), the Order states that the party contesting the finding should file a Motion for Reconsideration within 15 days from the date

of the Order. The Motion for Reconsideration should identify the required information which is deficient and the movant should serve a copy of the motion upon the debtor, debtor's attorney and the trustee. If no Motion for Reconsideration is filed in a timely manner, the Conditional Order becomes final and all parties are barred from seeking dismissal for failure to file documents required under §521(a)(1).

The entry of an Order determining compliance with §521 is a practice that courts in other jurisdictions are using as well. By issuing such an Order, speculation is removed as to whether a case may be subject to automatic dismissal and the document brings closure to the compliance issue.

UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF FLORIDA _____ DIVISION	
In Re: John Q. Debtor	Case No. 00-00000 Chapter 7
Debtor(s)	
<b><u>ORDER CONDITIONALLY DETERMINING DEBTOR'S COMPLIANCE WITH FILING REQUIREMENTS OF SECTION 521(a) AND SETTING DEADLINE FOR RECONSIDERATION</u></b>	
<p>Pursuant to 11 U.S.C. §521(i)(1), if an individual debtor in a voluntary case under Chapter 7 or Chapter 13 fails to file all of the information required under 11 U.S.C. §521(a)(1) within 45 days after the date of the filing of the petition, the case shall be automatically dismissed effective on the 46<sup>th</sup> day after the date of the filing of the petition. The Court has reviewed the file in this case and finds as follows:</p> <ol style="list-style-type: none"> <li>1. That the debtor has complied with the filing requirements of 11 U.S.C. §521(a) and is not subject to automatic dismissal under 11 U.S.C. §521(i)(1) or (2). This finding is conditional upon there being no request for reconsideration within the time prescribed herein.</li> <li>2. That any party having any reason to contest the Court's finding that the debtor has filed all information required by 11 U.S.C. §521(a) shall file a Motion for Reconsideration not later than 15 days from the date of this Order and shall serve such motion on the trustee, debtor and debtor's counsel, if any. The motion should specifically identify the information and document(s) required by 11 U.S.C. §521(a) that the debtor has failed to file.</li> <li>3. That if no request for reconsideration is filed in the time and manner stated herein, this Order shall become final after the expiration of the deadline to request reconsideration and all parties shall be barred from seeking dismissal of the case under 11 U.S.C. §521(i)(1) or (2).</li> </ol>	
<p>DONE AND ORDERED on the _____ day of _____, 2005.</p> <p style="text-align: right; margin-right: 100px;"> <u>/s/ Lewis M. Killian, Jr.</u>            Lewis M. Killian, Jr.            United States Bankruptcy Judge         </p>	
cc: All parties and creditors	

## Free *HelpCenter* Download Now Available



The latest innovation to provide support to CM/ECF users is now complete and available to be downloaded to your computer.

The FLNB *HelpCenter* was designed and created by local court staff to provide attorneys in the Northern District of Florida with a single source for assistance with the ECF system and information about procedures in the Northern District. The features of the *HelpCenter* will allow you to:

- submit proposed orders (and receive a confirmation that your order was received) without opening an email program;
- access forms, manuals, procedure guides, local rules and lists of CM/ECF filing events;
- view a summary of the court calendar and 341 meeting calendar;
- access phone numbers and email addresses of court staff;
- submit questions to the Help Desk; and,
- access the FLNB Court Forums.

The unique design of the *HelpCenter* creates an icon on your web browser's tool bar. While working in ECF or any other application, a user can click on the icon and a separate panel will open on the left side of your screen. This allows the user to perform functions such as submit orders or view filing instructions while continuing to work in ECF or any other application.

The *HelpCenter* will always contain the most up-to-date information available to ECF users. For example, the information contained on the calendar is derived directly from the ECF calendar system. When hearings or 341 meetings are added to the ECF system, they appear on the *HelpCenter* calendar within minutes. Also, as documentation is added to the system, such as new procedures related to BAPCPA, the information becomes available through the *HelpCenter* without requiring a new download.

The *HelpCenter* has been in development since June, 2005 and a test version has been used by a few attorneys since August, 2005. Comments and feedback from the attorneys testing the product allowed for the *HelpCenter* to be further developed and enhanced with practical features which are important to bankruptcy practitioners in the Northern District of Florida.

The *HelpCenter* can be downloaded from the FLNB Forums site. To execute the download, go to [www.flnb.uscourts.gov](http://www.flnb.uscourts.gov) and click on *Clerk's Online Forum*. The forum contains the latest instructions for installing the *HelpCenter* as well as documentation for using the *HelpCenter*. The *HelpCenter* is also available via CD which can be mailed directly to you. The Court Services Division is also offering office visits to demonstrate and install the *HelpCenter* on your computer. To request your demonstration and installation, please email Luke Adams at: [Luke\\_Adams@flnb.uscourts.gov](mailto:Luke_Adams@flnb.uscourts.gov).

***"I am a frequent user of the HelpCenter. I use it to submit Orders, look up telephone numbers and to find out who the case manager is on my cases. Lately, since the implementation of the Bankruptcy Reform Act, I've been using the documentation section.... a lot!"***

*~Sharon Sperling, Gainesville Attorney~*



## FLNB RESOURCES

### MAIN PHONE NUMBERS:

Tallahassee: (850) 521-5001

Pensacola: (850) 435-8475

### HELP DESK:

Tallahassee, Gainesville & Panama City Divisions  
(888) 765-1752

Pensacola Division  
(888) 765-1751

E-mail Help: CMECF\_helpdesk@flnb.uscourts.gov

### EMAIL ADDRESS FOR PROPOSED ORDERS:

*Cases filed in Tallahassee, Gainesville  
or Panama City Divisions:*

TLH\_Orders@flnb.uscourts.gov

*Cases filed in Pensacola Division:*

PNS\_Orders@flnb.uscourts.gov

### COURT WEB SITE:

www.flnb.uscourts.gov

## Northern District Bankruptcy Filings 2004 vs. 2005

